

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

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**CIVIL MINUTES - GENERAL**

Case No.	CV 11-1793 CAS (RZx)	Date	June 27, 2011
Title	JULIO LEMUS; ET AL. v. WELLS FARGO BANK, N.A.; ET AL.		

Present: The Honorable	CHRISTINA A. SNYDER
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CATHERINE JEANG	SANDRA BECCERA	N/A
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Deputy Clerk	Court Reporter / Recorder	Tape No.
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Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Edward Vaisbort

**Proceedings:** **DEFENDANTS' MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM** (filed 03/09/11)

On November 16, 2009, plaintiffs Julio and Yolanda Lemus filed suit in the Los Angeles County Superior Court against defendants Wells Fargo Bank, N.A ("Wells Fargo"), First American Loanstar Trustee Services, U.S. Bank National Association as trustee for Banc of America Funding Corporation 2006-6 ("U.S. Bank"), and Does 1 through 10. Plaintiffs' complaint advances five claims for relief: (1) to set aside trustee sale; (2) to cancel trustee's deed; (3) to quiet title; (4) accounting; and (5) a violation of the Truth in Lending Act, 15 U.S.C. § 1601 et seq. On March 2, 2011, Wells Fargo and U.S. Bank removed the action to this Court on the basis of federal question jurisdiction. See 28 U.S.C. §§ 1331, 1441.

On March 9, 2011, Wells Fargo and U.S. Bank filed a motion to dismiss plaintiffs' complaint. Plaintiffs failed to timely file and serve an opposition. Indeed, plaintiffs have not filed any opposition to defendants' motion. On June 14, 2011 and June 24, 2011, defendants filed declarations, indicating that plaintiffs have not filed an opposition. The Court held a hearing on June 27, 2011, to which plaintiffs did not appear.

The Court finds that no good reason has been provided for the failure to oppose defendants' motion. Pursuant to Local Rule 7-12, plaintiffs' failure to oppose this motion may be deemed by the Court as consent to the granting of this motion. Therefore, the Court GRANTS defendants' motion to dismiss without prejudice. Plaintiffs shall file an amended complaint within **twenty (20) days** after the filing of this order. Plaintiffs are

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admonished that, in the event that they do not amend the complaint within **twenty (20) days**, the Court will dismiss this action with prejudice.

IT IS SO ORDERED.

Initials of Preparer 00 : 01  
CMJ